

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:19-cv-00088

Kenneth Alexander,
Plaintiff,

v.

Smith County, Texas, et al.,
Defendants.

Before BARKER, *District Judge*

ORDER

Before the court are the findings of fact and recommendation of United States Magistrate Judge K. Nicole Mitchell regarding plaintiff's civil rights lawsuit seeking to enjoin a state criminal prosecution against him. Doc. 11.

Having conducted a proceeding in the form and manner prescribed by 28 U.S.C. §636(b)(1) and (3), the magistrate judge recommends that the lawsuit be dismissed with prejudice for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim upon which relief may be granted. Doc. 11. Plaintiff received a copy of the magistrate's report on May 9, 2019, Doc. 12, and had fourteen days to file objections. 28 U.S.C. §636(b)(1). In accordance with Fed. R. Civ. P. 6(d), the deadline was extended by three days, giving plaintiff a due date of Monday, May 27, 2019. Because that day was a legal holiday, plaintiff's objections were due the next day: Tuesday, May 28, 2019. Plaintiff did not file objections by that date. Instead, on May 28, plaintiff notified the court that he planned to have surgery on June 11, 2019. Doc. 13. Since then, plaintiff has still not filed any objections.

When no party objects to a magistrate judge's report and recommendation, the district court "need only satisfy itself that there is no clear error on the face of the record." *Douglass*

v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1420 (5th Cir. 1996) (en banc) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)), *superseded by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending time to object from 10 to 14 days)). As there is no clear error in the magistrate judge's findings of fact and recommendation, Doc. 11, the court hereby **adopts** them.

Consequently, this action is **dismissed with prejudice** for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim upon which relief may be granted. Any motions which may be pending in this case are **denied**. The clerk of the court is **directed** to close this case.

So ordered by the court on July 31, 2019.



J. CAMPBELL BARKER
United States District Judge